Doc Code: AP.PRE.REQ

PRE-APPEAL BRIEF REQUEST FOR REVIEW

PRE-APPEAL BRIEF REQUEST FOR REVIEW	Docket Number (Optional) 200209649-1

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on _____ Signature_____ Typed or printed name _____	Application Number 10/812,149	Filed 03/29/2004
	First Named Inventor John MacLAREN	
	Art Unit 2189	Examiner Thanh Duc Vo

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
        Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☑ attorney or agent of record.   44,144
Registration number _____.

☐ attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____

_____/Jonathan M. Harris/_____
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07/13/2007
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

☑ *Total of **one (1)** forms are submitted.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellants:	John MacLaren et al.	§	Confirmation No.:	2968
		§		
Serial No.:	10/812,149	§	Group Art Unit:	2189
		§		
Filed:	03/29/2004	§	Examiner:	Thanh Duc Vo
		§		
For:	Memory Testing	§	Docket No.:	200209649-1

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF   Date: July 13, 2007
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

Appellants hereby submit this Pre-Appeal Brief Request for Review in connection with the above-identified application.   A Notice of Appeal is filed concurrently herewith.

In the Final Office Action dated May 24, 2007, the Examiner: (1) rejected claims 1-3, 6, 8-11, 13, 14, 17 and 18 under 35 U.S.C. § 102(b) as allegedly anticipated by Piccirillo; 2) rejected claims 4, 5 and 12 under 35 U.S.C. § 103(a) as allegedly obviously over Piccirillo in view of McKenzie; and 3) rejected claims 7, 16 and 19 as allegedly obvious over Piccirillo in view of Nakamura. Appellants respectfully submit that the art of record fails to teach at least one element of the claims thereby rendering the Examiner's rejections defective.

Claim 1 is directed to a computer system and requires that a "memory module is present in the computer system but isolated wherein transactions that target said isolated memory module can complete without loss of data and without accessing said isolated memory module, and while isolated, said memory module is tested." In short, Piccirillo does not teach completing transactions to an isolated memory module while the isolated memory module is being tested. No other art of record satisfies this deficiency of Piccirillo. For at least this reason, the Examiner erred in rejecting claim 1.

In support of the rejection of claim 1, the Examiner seems to have focused primarily on para. [0088] of Piccirillo which is as follows (emphasis added for purpose of a statement below regarding claim 10):

> [0088] The hot-plug events associated with the present system allow a user to remove a memory cartridge 25A-25E while the system remains operational. It may be desirable to be able to replace individual memory modules (DIMMs) while the system is still operational. Such a "hot-replace" feature provides the ability in a fault-tolerant memory configuration to **disable redundancy**, replace a failed DIMM with an equivalent DIMM, and then re-establish redundancy without significantly impacting normal system operation and without requiring the system to be powered down. Hot-replace is generally associated with a failure condition or a pre-failure condition. A failure condition will result in a light associated with one of the DS LEDs 144 being illuminated indicating which corresponding DIMM has failed. For a pre-failure condition, the host/data controller 16,18 will indicate which DIMM is faulty. Once a user is notified of the failure, a normal hot-plug procedure described with reference to Table 7 is initiated on the memory cartridge 25A-25E containing the faulty DIMM. **The system is taken out of a redundant mode of operation**, and the individual memory cartridge is powered-down. The user then replaces the faulty DIMM and inserts the memory cartridge back into the system. The memory cartridge is then powered-up in accordance with the procedure described with reference to Table 6. Once the memory cartridge is powered up, it is rebuilt and verified for functionality. If the memory cartridge has no faults, the system is returned to a redundant mode of operation.

Piccirillo thus teaches disabling the redundancy mode of a memory subsystem, replacing a failed DIMM, verifying that the replaced DIMM is functional, and then re-enabling the redundancy mode of the memory subsystem. Piccirillo teaches disabling the fault tolerant capability to replace and test a new memory device. Piccirillo does not teach that transactions are permitted to occur to a newly replaced DIMM while the DIMM is being verified. Thus, while claim 1 requires completing memory transactions to an isolated memory module being tested, Piccirillo has no such teaching or suggestion.

In the Final Office Action, the Examiner stated with regard to Piccirillo that "while the failed memory is not operational...any transactions that supposedly

target the failed memory can be completed since Piccirillo's system is a fault-tolerant memory configuration." Final Office Action p. 8. However, as explained above, Piccirillo teaches that "[t]he system is taken out of a redundant mode of operation" so that the failed memory cartridge can be replaced. Thus, when a memory cartridge is being replaced, Piccirillo advocates disabling fault tolerance.

For at least the reason provided herein, the Examiner erred in rejecting claim 1 as well as the claims that depend from claim 1. The Examiner erred in rejecting the remaining independent claims, and their dependent claims, for much the same reason.

Applicants note also that claim 10 specifically requires that transactions complete to the isolated memory module "based on the redundancy." As highlighted in the quote above from Piccirillo, Piccirillo teaches disabling redundancy when replacing a failed DIMM. Because redundancy is disabled, clearly transactions cannot be completed based on the redundancy.

Appellants respectfully request reconsideration and that a timely Notice of Allowance be issued in this case. It is believed that no extensions of time or fees are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required (including fees for net addition of claims) are hereby authorized to be charged to Hewlett-Packard Development Company's Deposit Account No. 08-2025.

Respectfully submitted,

_____/Jonathan M. Harris/_____
Jonathan M. Harris

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